

(101)
2-19-02
sc

1-cv-00-697

mag y/mayor

Exhibits

FILED
HARRISBURG PA

FEB 15 2002

MARY E. D'ANDREA CLERK
Per g/c
Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

INTERNATIONAL MARKETING, INC.

Plaintiff,

v.

COUNTERACT BALANCING BEADS, INC.

Defendant.

C.A. NO. 1:CV 00-0697

(Magistrate Judge Smyser)

AFFIDAVIT OF COSTAS S. KRIKELIS, ESQUIRE

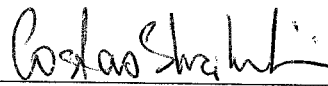
I, Costas S. Krikelis, being duly sworn, do depose and state as follows:

1. I submit this affidavit in support of the *Response Of Counteract Balancing Beads In Opposition To The Motion Of International Marketing For Contempt* (the "Motion").
2. I am a shareholder in the law firm of Ratner & Prestia, and am counsel to defendant Counteract Balancing Beads, Inc. ("CBB") in this matter. I have personal knowledge of the facts stated in this affidavit, or I have conferred with others working for me with respect to certain facts not within my personal knowledge. I believe all of the facts personally known to me to be true, and all other facts to be true to the best of my knowledge.
3. On or about January 28, 2002, upon receiving and reviewing the Motion of IMI for contempt on the part of CBB, Kevin Goldstein and I accessed and reviewed the CBB website (www.counteractbalancing.com) to determine the accuracy of the accusations of IMI in its Motion.
4. Upon accessing the CBB website, we accessed each of the four portals or gates, for advertising directed to the United States, International English speaking countries, Portugal

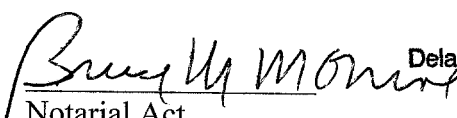
and Italy. For each of the websites for CBB International English, Portugal and Italy, we accessed the "pull-down" window providing a listing of countries in which distributors of the CBB product may be found. Contrary to the misrepresentations by IMI, the country "pull-down" windows for CBB International English, CBB Portugal, and CBB Italy did not list any United States locations for distributors.

5. Upon inquiry with CBB, we were advised that the foreign websites were updated and corrected to only list foreign locations for distributors for the CBB International English, CBB Portugal and CBB Italy websites on or about January 1, 2002.

Date: February 14, 2002


Costas S. Krikelis, Esquire

SWORN AND SUBSCRIBED to before
me this 14th day of February 2002.

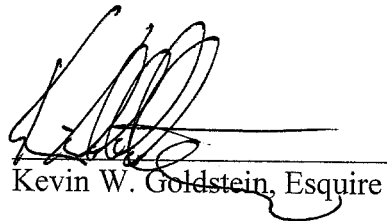

Notarial Act
29 Del. Code § 4323

Bruce M. Monroe
Delaware Attorney ID #3524
Notarial Act under
29 Del. Code 4323

and Italy. For each of the websites for CBB International English, Portugal and Italy, we accessed the "pull-down" window providing a listing of countries in which distributors of the CBB product may be found. Contrary to the misrepresentations by IMI, the country "pull-down" windows for CBB International English, CBB Portugal, and CBB Italy did not list any United States locations for distributors.

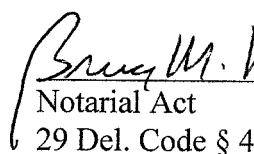
5. Upon inquiry with CBB, we were advised that the foreign websites were updated and corrected to only list foreign locations for distributors for the CBB International English, CBB Portugal and CBB Italy websites on or about January 1, 2002.

Date: February 14, 2002



Kevin W. Goldstein, Esquire

SWORN AND SUBSCRIBED to before
me this 14th day of February 2002.



Bruce M. Monroe
Notary Public
Notarial Act under
29 Del. Code 4323

Exh B

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

INTERNATIONAL MARKETING, INC.

Plaintiff,

v.

COUNTERACT BALANCING BEADS, INC.

Defendant.

C.A. NO. 1:CV 00-0697

AFFIDAVIT

I, Roger LeBlanc being duly sworn, do depose and state as follows:

1. I submit this affidavit in support of the Response Of Counteract Balancing Beads ("CBB") To The Motion Of International Marketing ("IMI") For Contempt (the "IMI Contempt Motion").
2. I am the President of CBB. I have been the president of CBB since the creation of the company in April 1997.
3. As the President of CBB, one of my duties is to oversee and direct the selection, creation and implementation of advertising by and for CBB.
4. As part of the international growth of our company's business, in or about June 2001, I requested that the CBB website be expanded to include a portal or gate to direct users from foreign countries to web addresses using language for such foreign customers.
5. After the trial in August 2001, on September 14, 2001, the Federal District Court in Harrisburg, Pennsylvania issues an Order (the "September Order") enjoining CBB

from making statements "to the public, its customers and potential customers in which it states or otherwise leads people to believe that Counteract Balancing Beads cling to the inside of a tire in a balancing position as a result of electrostatic cling."

6. Immediately after receiving a copy of the September Order, I undertook steps to revise CBB's advertising and marketing materials.
7. Towards that end, after reviewing our advertising materials, on or about October 1, 2001, I requested that our four page, fold-out brochure be updated and corrected to remove references to the phenomena of electrostatic cling exhibited by the CBB Beads. I also requested that our website be revised such that advertising directed to the United States, as compared to customers in Portugal, Italy and England (Great Britain), be revised to remove references to the phenomena of electrostatic cling as exhibited by the CBB Beads.
8. I understand that our website creator revised the CBB website to include a portal or gate for customers from the United States on or about November 1, 2001.
9. I also know that several revisions were made to the website pages during November to further correct the website, to ensure the website complied with the September Order, and to accommodate questions and issues raised by IMI.
10. I was advised by my counsel that IMI had threatened to file a motion for contempt in October 2001, and later in November 2001. Each time such a threat was made by IMI, we sought in good faith to address the issues raised by IMI.
11. In December 2001, upon reviewing our website, we noted a mistake in the listing of countries where distributors of CBB are located in the website pages directed to foreign countries and foreign customers. Upon realizing this mistake, we immediately

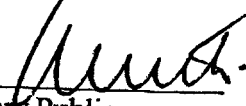
requested that our website creator, Rick Colbourne, correct and update the appropriate website pages such that reference to any United States locations of distributors was removed from the listings of foreign countries.

12. I understand and believe that this update and revision to the CBB website was implemented on or about January 1, 2002.

Date: February 14, 2002


Roger LeBlanc

SWORN AND SUBSCRIBED to
Before me this 14th day of
February 2002.


Notary Public
WARREN JAMES SMITH
SOLICITOR.



**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

INTERNATIONAL MARKETING, INC.

Plaintiff,

v.

COUNTERACT BALANCING BEADS, INC.

Defendant.

C.A. NO. 1:CV 00-0697

AFFIDAVIT


I, Matthew Abbott being duly sworn, do depose and state as follows:

1. I submit this affidavit in support of the Response Of Counteract Balancing Beads ("CBB") To The Motion Of International Marketing ("IMI") For Contempt (the "IMI Contempt Motion").
2. I am an employee of CBB. I have been employed by CBB since approximately April 1998.
3. As an employee of CBB, one of my duties is to assist Roger LeBlanc, the President of CBB, in implementing and updating the advertising used by CBB, including the CBB website (www.counteractbalancing.com).
4. Almost immediately after we received the September 14, 2001 Order (the "September Order") from the Federal District Court in Harrisburg, Pennsylvania requiring that we revise our advertising, Roger LeBlanc and I reviewed the CBB advertising materials to determine what revisions were necessary to comply with the Court Order.

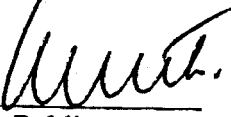
5. Based upon our review of the advertising materials, we immediately stopped using our old fold-out brochures and ordered a revised printing of the CBB brochure. The revised CBB brochures removed references to the phenomena of electrostatic cling as exhibited by the CBB Beads.
6. We also requested that Rick Colbourne, our website creator, revise and update the CBB website, such that the website advertising directed to the United States, was to be updated to remove references to the phenomena of electrostatic cling as exhibited by the CBB Beads. Our request to Mr. Colbourne to update the CBB website was made on or about October 1, 2001.
7. During the months of October and November, I remember working with Mr. Colbourne to make additional revisions and corrections to the CBB website to ensure we were complying with the Court Order.
8. I was advised by counsel for CBB that IMI had threatened to file a motion for contempt in October 2001, and later in November 2001. Each time such a threat was made by IMI, we sought in good faith to address the issues raised by IMI.
9. In December 2001, when CBB employees, including Roger LeBlanc and me were reviewing our website, we noted a mistake in the listing of countries where distributors of the CBB Beads are located in website pages directed to foreign countries and foreign customers. CBB immediately contacted Rick Colbourne, the creator of the CBB website, and requested that he correct and update the appropriate website pages such that reference to any United States locations of distributors was removed from the listings of foreign countries.

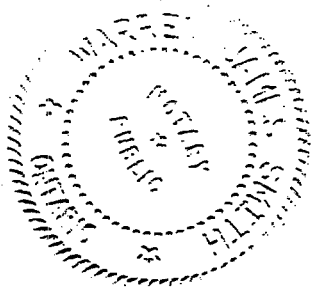
10. The above is an accurate and truthful statement of the relevant facts regarding the revisions to the CBB website to the best of my knowledge and belief.

Date: February 14th, 2002


Matthew Abbott

SWORN AND SUBSCRIBED to
Before me this 14th day of
February 2002.


Notary Public
WARREN JAMES SMITH
SOLICITOR.



Exh C

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

INTERNATIONAL MARKETING, INC.

Plaintiff,

v.

COUNTERACT BALANCING BEADS, INC.

Defendant.

C.A. NO. 1:CV 00-0697

AFFIDAVIT

I, Rick Colbourne being duly sworn, do depose and state as follows:

1. I submit this affidavit in support of the Response Of Counteract Balancing Beads ("CBB") To The Motion Of International Marketing ("IMI") For Contempt (the "IMI Contempt Motion").
2. I operate my own website development business that includes creating and updating web site pages for various companies. My business address is in Guelph, Ontario, Canada.
3. CBB is one of my clients, for who I have created, revised, and updated a website. I also maintain and update the website for CBB when changes and revisions are requested.
4. I have worked with CBB for approximately the last two years.
5. I have reviewed my records regarding the history of development and revisions incorporated to the CBB website over the past year.

6. Based upon my review of my notes, and records, including copies of my invoices sent to CBB for the work I completed, and based upon my best personal recollection, the following describes when certain revisions, updates and changes were made to the CBB website.
7. During July and August 2001, I created and implemented a front portal or gate webpage for the existing CBB website to direct users to the particular language of their country. This feature was initially implemented on or about August 28, 2001 and included gates or portals for English, Portuguese and Italian languages.
8. During October 2001, at the request of CBB, I revised and updated the CBB website to create another portal or gate for advertising to be directed to customers within the United States, and to remove references to the terms "electrostatic cling" as used in the advertising directed to United States customers.
9. The revisions to the United States CBB website were extensive, including my creating another web gate or portal to be accessed by CBB customers from the United States, revising the website FAQ section, the "How It Works" section, and my revising certain language located throughout the website referencing the terms "electrostatic cling" and the CBB patent. The entire CBB website currently includes approximately 130 pages and links.
10. Later, in December 2001, CBB asked me to correct an error in the website pages directed to foreign countries and customers, which included a listing of countries where distributors of the CBB Beads are located on the website pages directed to foreign customers. On or about January 8, 2002, I implemented the requested change which

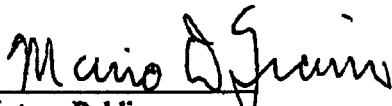
entailed removing reference to any United States locations of distributors from the listings of foreign countries.

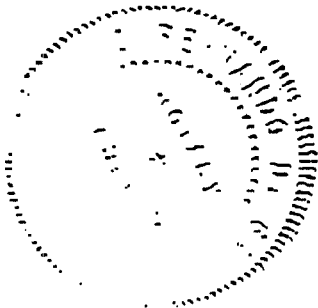
11. The above is an accurate and truthful statement of the relevant facts regarding the revisions to the CBB website to the best of my knowledge and belief.

Date: February 14, 2002


Rick Colbourne

SWORN AND SUBSCRIBED to
Before me this 14 day of
February 2002.

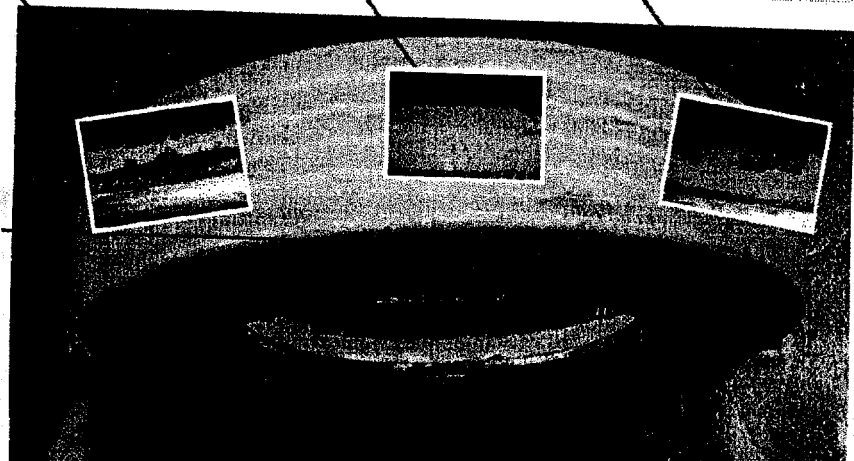

Notary Public
MARIO DI GRAVIO





COUNTERACT

Kinetic Clinging Micro-Beads
Balancing System
and how it works



ADVANTAGES OF KINETIC CLINGING BEADS AND WHY THEY ARE THE BEST OVERALL!



DYNAMIC BALANCE
(right of centre)

ADVANTAGES OVER LEAD WEIGHT MACHINE BALANCING

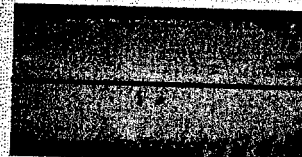
Counteract Balancing Beads balance for the complete life of the tire because they can readjust the balanced position as required... something lead weights are unable to do. Counteract Balancing Beads balance the complete wheel assembly in all wheel positions on both truck and trailer and do so economically. Counteract is protected from road hazards and obstructions inside the tire and will not fall off as lead weights can do... saving the environment from the problems caused by lead weights.

ADVANTAGES OVER OTHER INTERVAL BALANCING AGENTS

Old technology employed by other dry internal balancing agents allows the product to fall to the bottom of the tire every time the vehicle stops. As a result of this, the vehicle and its wheel assembly experience vibration until eventually balancing again at highway speeds. This occurs after every stop. The result of this repeated action can break the product down, creating dust related problems such as clumping (if moisture is present), and numerous other difficulties... all resulting in extra labor for the tire installer. Counteract Balancing Beads produced under U.S. Patent No. 6,126,952 have been found to cling to the truck tire when the vehicle is stopped. With Counteract Balancing Beads you won't have dust or product breakdown problems.

ADVANTAGES OVER BALANCING RINGS

Unlike balancing rings, Counteract does not have to go through a vibration and eventual balancing after every stop. Counteract is protected inside the tire, from road hazard damages. Counteract is a lot less expensive than a balancing ring and is also reusable.

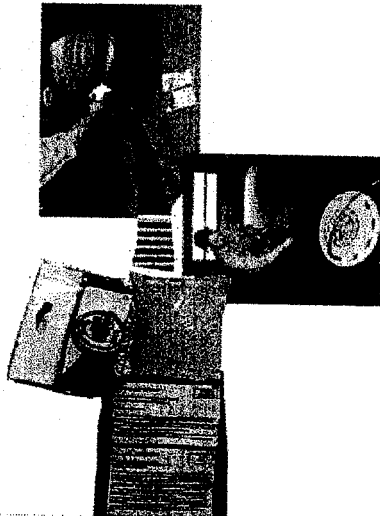


STATIC BALANCE



DYNAMIC BALANCE
(left of centre)

*Just throw
it in!*



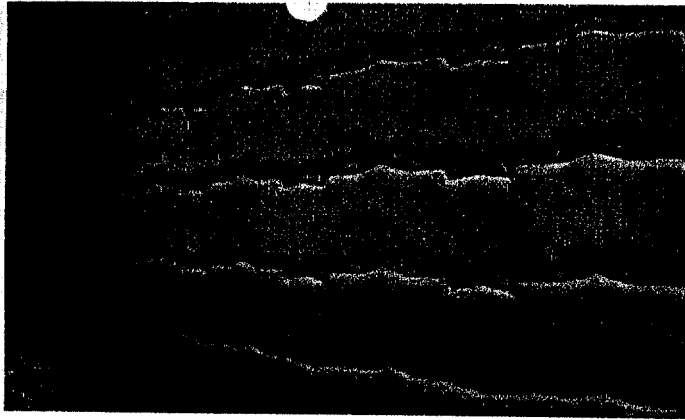
All that you have to do is open the outside package and throw the inside bag into the tire

- This method allows the use of an air blaster to seat the tire on the rim, without contaminating the seating area
- The air blaster pressure inside the tire will collapse the bag containing Counteract's Kinetic Clinging Balancing Beads or it will break soon after use.
- The kinetic clinging Counteract Balancing Beads will automatically balance the complete wheel assembly and will stabilize in the balanced position even when the vehicle is stopping and starting — effectively eliminating wear and tear and preventing all dust related problems.

Call 1-800-572-8952

for information on distributors in your area.

**Perfect Balance
Perfect Wear**



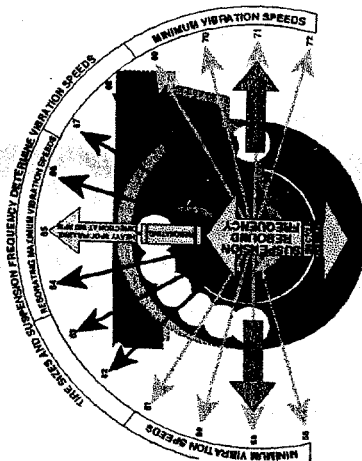
KINETIC CLING

Note: It has been reported that some steering tires using CBB have recorded more than 200,000 miles. Manufactured under U.S. Patent no. 6,126,952

Distributed By

Exh E

THE LATEST TECHNOLOGY IN TRUCK TIRE BALANCING

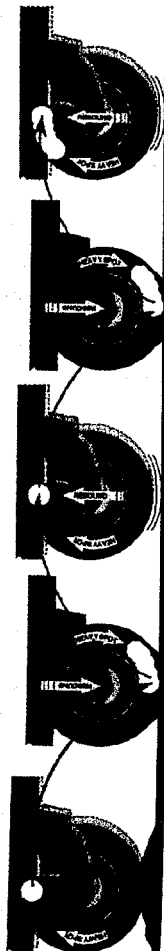


KINETIC CLINGING BALANCING MICRO-BEADS — HERE'S HOW THEY WORK!

A recent survey with respect to truck tire balancing reflected that the average wheel assembly imbalance for tire size of 11R22.5 and 11R24.5 and low profile was 7 oz. balance off the vehicle and 8 oz. balance on the vehicle. For purposes of explaining the concept of the balancing we will use the conservative average of 6 oz. at a speed of 60 miles per hour the above sized tire would be an average of 350 revolutions per minute. As a result of centrifugal force, the 6 oz. out of balance, or what is commonly referred to as "heavy spot," will multiply itself to 60 pounds (180 lbs). As the suspension of the vehicle only allows for critical motion, the 60 pounds of centrifugal force will compress upwards and downwards on the suspension 30 times per minute, which can be reinterpreted as 100 shock waves.

Imbalance is maximized when the combined force of the bound and the out of balance centrifugal force are bound and resonating with reflex frequency of the suspension in unison at highway speeds; this dribbling effect efficiently multiplies the up and down forces so as to suit in the tire bouncing off the road surface. This also explains why vibration is felt only at certain speeds, and as effect can only be eliminated by altering speed (i.e. speeding the out of balance and rebound force frequencies), or by balancing the tires and wheel assembly.

OUT OF BALANCE WHEEL ILLUSTRATION AT HALF REVOLUTION



The latest patented technology available to Counteract, the out of balance condition employs kinetic clinging micro beads which stabilizes and fine tunes balancing. When Counteract Balancing Beads (CBB) are injected inside the tire they gradually move through inertia in the opposite direction of the up and down motion and automatically counteract the imbalance, remaining in this balanced position, defying gravity, even while maneuvering curves and bends on the highway and when the vehicle is in a stopped position. This eliminates wear and breakdown of CBB's balancing agent. The result is

that the glass beads do not disengage from the lining every time the tire stops motion. CBB will readjust if necessary to keep the tire and wheel assembly balanced throughout the entire life of the tire. This prevents clumping due to moisture and eliminates dust problems. This product is environmentally friendly and will not react to any known chemicals. These unique characteristics result in providing the best of both worlds; the mechanical fixed weight balancing of tires and the automatic adjustment of internal balancing agents.

HOW IT WORKS

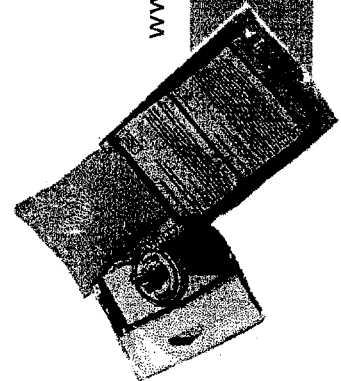


The CBB will be evenly distributed around the tire as it begins to roll through centrifugal force.

As the centrifugal force of the out of balance (heavy spot) increases and pulls up and down on the suspension, the CBB start to move in the opposite direction of the downward and upward travel through inertia.

The CBB continue to travel until the complete wheel assembly is balanced.

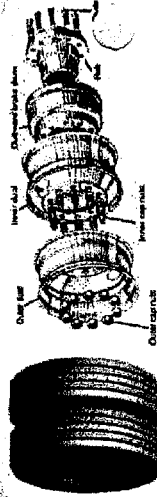
This process combines the advantages of both types of balancing: the mechanical fixed weight balancing of the tires, and the automatic adjustment of internal balancing agents.



www.counteractbalancing.com

IN TODAY'S WORLD IT JUST MAKES SENSE TO BALANCE ALL YOUR TIRES. AND, IT'S RELATIVELY INEXPENSIVE ESPECIALLY CONSIDERING THE BENEFITS:

- Substantial savings on wear and tear of the vehicle
- An average of 30% improvement on tire life
- Decreased rolling resistance of the tires and improved fuel economy



RUSSIAN ROULETTE

All parts of a wheel assembly are manufactured with tolerances for imperfections. By assembling together all these parts and their imperfections without balancing the complete wheel assembly, you are playing Russian Roulette with your mechanical repairs, tire expenses and fuel economy. The vibration that the driver feels from the steering tires also applies to all of the remaining wheels of the vehicle. In this example, the same forces are there, only they are multiplied by the dual wheel assembly to 120 pounds of up and down force. Heavy loads only shorten the wave length of the vibration. This up and down force (vibration), of 1100 times per minute, damages not only the tires, but over a period of time, many of the vehicle components, and is one of the main reasons that wheel fasteners, maxi booster clamps, U-bolts and torque rod bolts work themselves loose, not to mention cracking in frame rails and cross members, breaking of air brackets, door hinges, lights, etc. As this 120 pound centrifugal force and its rebounding multiplying factor hit the road, it has the same effect as slightly applying the brake or hitting a pot hole 550 times per minute, increasing the rolling resistance of the entire vehicle. This is because the only contact it has with the ground are its tires.

**FOR INFORMATION CONTACT
COUNTERACT BALANCING BEADS
TOLL FREE AT 1-800-572-8952, FAX 905-873-3088
LOCAL CALLS 905-873-3339**

Exh F

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

INTERNATIONAL MARKETING, INC.,	:	CIVIL NO. 1:CV-00-0697
	:	
Plaintiff	:	(Magistrate Judge Smyser)
	:	
v.	:	
	:	
COUNTERACT BALANCING	:	
BEADS, INC.,	:	
	:	
Defendant	:	

MEMORANDUM

FILED
HARRISBURG, PA

SEP 14 2001

MARY E. D'ANDREA, CLERK
PER 973 DEPUTY CLERK

I. Introduction.

The trial of this case was held on August 6, 7, 8 and 9, 2001. A non-jury trial was held, this magistrate judge¹ presiding, in this civil action for injunctive relief. The parties have submitted post-trial proposed findings of fact and proposed conclusions of law. The case is ripe for decision.

Plaintiff International Marketing, Inc. ("IMI") is a Pennsylvania corporation with its principal place of business located in Chambersburg, Pennsylvania. Defendant Counteract

¹The parties have consented to proceed to a final adjudication by a United States Magistrate Judge. 28 U.S.C. § 636(c).

Balancing Beads, Inc. ("CBB") is a Canadian corporation with its principal place of business in Georgetown, Ontario, Canada.

Plaintiff IMI produces, markets and sells EQUAL, a dry polymer that is marketed to be placed inside truck tires for the purpose of reducing vibrations within the tire by "balancing" the rotating tire. Defendant CBB markets and sells "counteract balancing beads," also called "electrostatic cling beads," glass beads which are marketed to be placed inside truck tires for the purpose of balancing the tire. Both EQUAL and the CBB beads are marketed on the basis that they improve the ride and prolong the life of tires. These products are referred to sometimes as internal balancing agents.

EQUAL and the CBB beads compete with one another for the same potential customers.

CBB is the owner, through its president, Roger LeBlanc, of U.S. Patent No. 6,128,952 for Tire Balancing Using Glass Beads (the "952 patent"). *D.Exh. 27*. Defendant CBB has been continuously selling its Counteract Balancing Beads product in Canada for approximately the past four years. Defendant CBB

has been selling the beads in the United States for more than three years.

Defendant CBB's beads product has been sold in interstate commerce in the United States. Defendant CBB's beads product has been used continuously and repeatedly by trucking fleets including the Ryder Truck fleet. Truck tires have a useful life of between 50,000 miles to 200,000 miles, with an average road life of 150,000. The beads product is marketed with the representation that, once the tire begins to roll, the beads gradually move through inertia in the opposite direction of the up and down motion and automatically counteract the imbalance, balancing the tire. It is represented in CBB's advertisements that the beads remain in this balanced position even when the vehicle is in a stopped position, due to a phenomenon described as "electrostatic cling."

Both IMI's product EQUAL and CBB's beads product similarly balance truck tires through distribution of the product along the inner liner of the tire during normal operating conditions. Defendant CBB claims beyond this during-operation balancing that its beads stay in position even when

the tire is no longer in motion due to electrostatic cling.

Specifically, CBB claims (P.Exh.1) that:

The latest patented technology available to counteract the out of balance condition is described in United States Patent No. 6,128,952. When Counteract Balancing Beads (CBB) are injected inside the tire they gradually move through inertia in the opposite direction of the up and down motion and automatically counteract the imbalance, remaining in this balanced position. This eliminates wear and tear and breakdown of CBB's balancing agent. This remarkable feat is accomplished through electrostatic cling, a phenomenon described in the patent as follows: "The glass beads after installation and during the initial rotations of the tire will charge by tribo- or contact electrification during contact between the glass beads and the rubber of the tire. Because of the conductivity of the rubber any charge on the tire will be quickly dissipated. However, because of the high surface resistivity of the glass beads, the charge will remain on the glass beads for long periods of time. The result is that the glass beads cling against the lining of the tire at the neutralizing balanced positions. This overall clinging effect is referred as "electrostatic cling." The result is that glass beads do not disengage from the lining whenever the tire stops motion because of the image force between the charge on the beads and an opposite induced in the rubber of the tire. CBB will readjust if necessary to keep the tire and wheel assembly balanced throughout the life of the tire.

Counteract Balancing Beads is a patented product that clings to the inside surface of a tire remaining in its balancing condition even when the vehicle is stopped

Old technology employed by other dry internal balancing agents allow the product to fall to the bottom of the tire every time the vehicle stops. As a result of this, the vehicle and its wheel assembly experience vibration until eventually balancing again at highway speed. *This occurs after every stop.* The result of this repeated action is to break the product down, creating dust related problems such as clumping (if moisture is present) and numerous other difficulties ... all resulting in extra labor for the tire installer. Counteract Beads is a patented product that clings to the inside surface of a tire remaining in its balanced position even when the vehicle is stopped ... with Counteract Balancing Beads you don't have any of the above problems.

The electrostatic cling Counteract Balancing Beads will automatically balance the complete wheel assembly and will stabilize in the balanced position even when the vehicle is stopped and starting - effectively eliminating wear and tear and preventing all dust related problems, including valve clogging.

The latest technology available to counteract the out of balance condition is described in United States Patent No. 6,128,952 as follows: "The glass beads after installation and during the initial rotations of the tire will charge by tribo- or contact electrification during contact between the glass beads and the rubber of the tire. Because of the conductivity of the rubber any charge on the tire will be quickly dissipated. However, because of the high surface resistivity of the glass beads, the charge will remain on the glass beads for long periods of time. The result is that the glass beads cling against the lining of the tire at the neutralizing balanced positions. This overall clinging effect is referred as "electrostatic cling". The result is that glass beads do not disengage from the lining whenever the tire stops motion because of the

image force between the charge on the beads and an opposite induced in the rubber of the tire. The inventor has discovered that when the tire is dismounted the glass beads remain flush against the lining. When the installer strikes the tire or a sudden shock is felt by the tire then only will the glass beads disengage from the lining and fall free.

The Counteract Balancing Beads are manufactured under this patent.

* * *

Counteract Balancing Beads' balancing method employs "electrostatic cling", as described in United States Patent No. 6,128,952. As provided in the patent "The glass beads cling against the lining of the tire at the neutralizing balanced positions. This overall clinging effect is referred as 'electrostatic cling'. The result is that glass beads do not disengage from the lining whenever the tire stops motion because of the image force between the charge on the beads and an opposite induced in the rubber of the tire." Other internal balancing agents fall to the bottom of the tire each time the vehicle stops, which causes the vehicle to experience vibration until it is eventually rebalanced at highway speeds; with these products, this occurs after every stop. The result of this repeated action is that the product breaks down into dust, which can create such dust-related problems as clumping.

IMI claims that CBB beads do not employ electrostatic cling or any other method by which the beads stay in the same position whether or not the tire is moving. IMI claims that the representations of defendant CBB that the beads employ electrostatic cling or otherwise stay in a balanced position

even when the tire has stopped and that the beads will be in a balanced position when the tire is starting and the representations that the beads are superior to other internal balancing beads because the beads employ electrostatic cling or otherwise stay in a balanced position even when the tire has stopped are false and/or have a tendency to deceive. IMI claims that defendant CBB has made the misrepresentations for the purpose of misleading potential purchasers of CBB beads and other internal balancing agents, such as EQUAL. These claims of IMI give rise to this Lanham Act claim, under 15 U.S.C. § 1125(a)(1)(B), which establishes civil liability for any false or misleading representation of fact in commercial advertising, which liability lies in favor of any damaged party. Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B) provides that:

Any person who, on or in connection with any goods or services ... uses in commerce ... any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which ...

(B) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services or commercial activities, shall be liable in a civil action by any person who believes that he or she is

or is likely to be damaged by such act.

Section 34 of the Lanham Act, 15 U.S.C. § 1116(a), authorizes federal courts to grant injunctions in order to "prevent a violation under 1125(a) of this title." This Court has jurisdiction over the subject matter of this lawsuit under 28 U.S.C. § 1331 because it arises under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

The witnesses called at trial were principals of the companies; experts in tire dynamics, electrostatics and materials; and trucking industry representatives who have been involved in selling, retreading, removing and mounting truck tires.

Robert Fogal, Sr. was the plaintiff's first witness. He is the founder and Chairman of IMI. His company produces, markets and distributes EQUAL, a dry, granular product that is installed into tires to make them roll more smoothly by reducing the forces that contribute to vibration. He described the glass beads product of CBB, noting CBB's "electrostatic cling" claim. He considers CBB to be a competitor of IMI. His

company has tested CBB's product, finding no electrostatic cling effect. He stated that he had become aware of the CBB electrostatic cling advertising in 1997.

Warren Schuessler testified about some of IMI's testing of the beads. A dynamometer² test was conducted at speeds of 60, 70 and 80 mph, and no beads were observed after the test other than at the bottom of the tire's inner walls where gravity would normally cause the product to be. Variables including different tire sizes and the use of a cleat³ did not affect the result. Other testing with the beads product run in rotating tires yielded test results that did not lead to a verification of the proposition that the beads can be caused by electrostatic energy to cling to the inner walls of the rubber tire.

Robert Fogal, Jr., IMI President and CEO, who participated in and who witnessed the IMI experiments,

²A dynamometer is a machine on which a tire can be rotated at high speeds and subjected to many variables in conditions.

³A cleat is a device used in the dynamometer rotation to simulate a bump in the road.

testified that he observed no clinging as the results of the simulations of the interaction of the glass beads and the inside rubber walls of tires at high rates of speed for effective distances of up to 36 miles.

Kenneth D. Marshall testified, stating expert opinions about tire dynamics. He discussed the causes of vibrations in tires, and he described the dynamometer testing that had also been described by other witnesses. He stated the opinion that the dynamometer conditions simulated actual on-the-road tire operation conditions to allow accurate testing. He stated that of all forces that could cause motion of glass beads within a rotating truck tire, the acceleration⁴ effect of the contact of the tire with the roadway, under weight, is the effect that by far creates the greatest acceleration. This flattened portion of the tire, constantly being repositioned about the tire's perimeter, is called the "footprint." The dynamometer testing, involving the application of downward pressure and thus the formation of a footprint, was accordingly materially similar to actual road conditions for purposes of the acceleration and movement of the beads. In other words, there is no reason to

⁴In this context, "acceleration" refers to the movement of the glass beads.

think the beads to have received any less impetus to be in motion and in potentially charging interaction in the dynamometer experiment than in actual road use.

Edward John Van Vooren testified as an expert in static electricity. He testified that in a simple experiment of rolling glass beads in a rubber tire inner wall he was not able to achieve any transfers of electrons. Through a series of experiments, he was not able to find any way in which any electrostatic attraction between glass beads and inner tire wall rubber could be produced. He could not find any evidence of clinging. His conclusion was, he stated, that regardless of the rotation rate, and regardless of any other variable, there was no evidence of electrostatic cling, and that the phenomenon of static electricity could not be shown to exist here.

For the plaintiff, Roger LeBlanc, the President of Contract Balancing Beads, Inc., was called to testify. He conceived the idea of the internal electrostatically clinging glass beads, and applied for a patent. He observed the beads clinging, sometimes in layers, in truck tires in which they had been used for some distances. He is the author of the advertising for the glass beads product. He represents that

the beads will cling in a balancing position when a vehicle has stopped. He performed no scientific testing of the product before placing it on the market or before the "electrostatic cling" advertising. As far back as three years ago, however, Dr. James Brown has been conducting glass-rubber electrostatic testing in conjunction with Mr. LeBlanc. The first controlled testing involving a use of the beads upon a part of a tire was done 1½ to 2 months ago.

For the defendant, Roger LeBlanc testified. Describing his background and experience in the truck tire industry, he testified about the development of his glass beads product idea and about his discovery of the electrostatic clinging effect of these beads. He obtained Dr. Brown's input and applied for a patent in September of 1997. The product as currently sold is created with a silicone coating. He knows that the beads need motion to begin to work. They also need heat. He knows these things from selling the product and from observing removed tires. He observed videotapes of the product clinging inside tires. These videotapes were made a part of the evidence in this trial. He had not employed a tire dynamics expert in preparing his patent application. He felt that he did not need a tire dynamics expert.

Ray Blackwood, a truck tire depot owner and operator, testified that he has seen CBB beads inside of removed tires many times and that the beads are usually clinging to the inside of the tire. He has not observed any other internal balancing product to be clinging inside of a removed tire. He stated that the beads remain sticking to the tire's inside wall when the tire is sitting in the truck depot's yard.

Dave Blackwood, who testified, is Ray Blackwood's son and works with his father at Ray's Tire Depot. Dave Blackwood, as had his father, observed in court a videotape (D.Exh. 10) made of a removed tire at Ray's Tire Depot, and testified as had his father that the glass beads were clinging to the tire's inner wall.

Hugo Van Pelt, who works for Dr. James Brown, was called as a witness by CBB and testified about PLACEF, a facility in St. Thomas, Ontario, Canada, where plastic components of various shapes and compositions are separated and sorted from one another through a process involving electrostatic charging of the plastic materials in a device employing an "electrode stream". Mr. Van Pelt participated in the preparation of the D.Exh. 10 videotape. He felt the beads

that were clinging to the tire wall as he removed some of them. They were dry. He stated that it was his opinion that the beads were clinging to the inside of the tire as the result of electrostatic cling. He acknowledged that the videotaped beads were a dark color, a color darker than new beads as depicted in pictures. He acknowledged that he used no instrument to measure whether there was an electrostatic charge present in the beads or the rubber. Mr. LeBlanc had supplied the tire that was videotaped. Mr. Van Pelt acknowledged in his testimony that he really does not have a background in electronics.

Bradley Guy Hawke was called by CBB and testified that he lives in Oakville, Ontario, Canada, and that he works for and owns a share of Tire Master Limited. He is the company's general sales manager. His company sells about 20,000 new and 60,000 retread truck tires a year, nearly all of which the company installs. His company has used lead weight balancers, EQUAL and CBB Balancing Beads. He has often observed broken down tires with CBB beads within. They are observed to be clinging, in many different patterns. Other internal balancing products in broken down tires are not observed to be clinging. Hawke identified a videotaped tire from his shop that had

clinging beads. The tire had been sitting in his yard for at least four days.

Dr. James Douglas Brown testified for CBB. He has been involved in companies that seek to find commercial applications for technically conceived processes. He has expertise in materials engineering, in electrostatics and in the electrostatic properties of materials. He is a professional engineer and has been a professor. The court permitted Dr. Brown to testify to expert opinions in these areas. Dr. Brown performed only simple testing of the electrostatic propensities of glass beads such as comprise CBB's product in interaction with rubber. The rubber was cut from a tire liner, or inner tube, and the experimental process involved vigorous rubbing of captured beads lying on one section of the rubber with another piece of the rubber and producing electrostatic cling in this manner. A somewhat similar experiment involved the electrostatic charging by rubbing of glass beads captured within a plastic zip lock polyethylene bag. Dr. Brown stated no basis in his testimony for any inference to be drawn that a controlled experiment could not be conducted to test the hypothesis, or to demonstrate, that CBB beads do become electrostatically charged when moved about within a truck tire

as a function of the motion dynamics and other variable factors within the tire-in-use and that the charge in combination with other factors causes the beads to stay in a balanced position when the truck stops moving. Dr. Brown, however, explained that the reason why no clinging was achieved in IMI's dynamometer testing was an inadequate charging of the beads. He stated that it is his opinion to a reasonable degree of scientific certainty that the beads become charged when in contact with a tire's inner surface and that the charge "can be sufficient so that the electrostatic force holding the bead to the tire can exceed gravity, and therefore when the truck tire stops, those beads will remain in place held by electrostatic force." Tr. 136. He also stated his opinion that, to a reasonable degree of scientific accuracy "the advertising materials used by Counteract Balancing Beads, represent the actual performance of those beads." Tr. 138.

In addition to the testimony of these witnesses, the court was presented with a substantial number of exhibits, including videotapes and in-court demonstrations.

All testimony and exhibits, although not expressly mentioned in this discussion, have been closely and carefully considered.

II. Findings of Fact.

The following findings of fact⁵ are the findings of the court:

1. The CBB beads are manufactured according to the description and disclosure of U.S. Patent No. 6,128,952.
2. CBB's current advertising and marketing quotes directly from U.S. Patent No. 6,128,952.
3. CBB's current advertising specifically quotes from U.S. Patent No. 6,128,952 relating to the property of electrostatic cling by providing:

The glass beads after installation and during the initial rotations of the tire will charge by tribo- or contact electrification during contact between the glass beads and the rubber

⁵The introductory statement above, at pp. 1-6, also contains findings by the court as to factual background matters that are not in dispute.

of the tire. Because of the conductivity of the rubber any charge on the tire will be quickly dissipated. However, because of the high surface resistivity of the glass beads, the charge will remain on the glass beads for long periods of time. The result is that the glass beads cling against the lining of the tire at the neutralizing balanced positions. This overall clinging effect is referred as "electrostatic cling." The result is that glass beads do not disengage from the lining whenever the tire stops motion because of the image force between the charge on the beads and an opposite induced in the rubber of the tire."

4. IMI conducted or had others conduct at least eight tests to determine whether CBB beads cling to the inside of a tire in a balancing position when the tire has stopped moving. Four of those tests involved the use of a dynamometer. Two of those tests involved road tests. One test involved a test conducted on a tire balancer. One group of tests was conducted in a laboratory. None of the tests resulted in any evidence that the beads would or could cling to the inside of a tire or could cling in a balancing position to any significant degree.

5. There are four significant accelerations present inside a tire which is running on a car or truck on the highway:

a. Centripetal acceleration resulting from the rotation of the tire;

- b. Suspension acceleration resulting from the action of the suspension of the vehicle;
- c. Bump acceleration resulting from the tire hitting bumps and potholes; and
- d. Footprint accelerations resulting from the tire's surface coming into contact with the road and through the footprint leaving the surface of the road.

Of these four accelerations, the footprint acceleration is by far the largest, followed by the centripetal acceleration, the bump acceleration and the suspension acceleration in that order. The effect of the centripetal acceleration is to cause particles, such as the CBB beads, to be forced to the inside surface of the tire. The bump acceleration and the suspension acceleration are not sufficient by themselves or in combination to overcome the effect of the centripetal acceleration. That is to say neither can cause particles within the tire, such as the beads, to leave the inside surface of the tire. On the other hand, the footprint acceleration is many times the centripetal acceleration and can and does, therefore, cause particles within the tire, such as the beads, to leave the inner surface of the tire. The footprint acceleration causes the particles within the tire to leave the inner surface of the tires as the tire leaves the surface of the road, causing all

the beads to leave the surface of the tire every rotation of the tire.

6. The size of the tire was not a significant factor in the dynamometer tests. The tests were run for long enough to establish electrostatic cling according to the Patent and the advertising. The beads were properly installed. The tire was sufficiently heated to eliminate moisture on the beads as a factor.

7. The conditions inside the tire created during the tests conducted by IMI using a dynamometer were substantially similar to those existing on a typical highway and sufficiently similar to allow valid testing of the CBB beads both with respect to balancing and electrostatic cling.

8. At the conclusion of each test conducted by IMI using a dynamometer, there was no evidence that the beads were clinging to the inside of the tire. In each instance, the beads fell to the bottom of the tire when the dynamometer was stopped.

9. IMI also conducted two road tests which adequately tested the beads because they were run on a typical road for a

sufficient distance to satisfy the criteria established by CBB. The beads in these tests fell to the bottoms of the tires after the tests.

10. Edward Van Vooren, as an expert in product testing, conducted two days of testing of the beads. In May of 1999, he conducted a series of laboratory tests designed to determine whether it is possible to get static charges to be built up in a way to cause the glass beads to cling to the tire. The first test involved putting glass beads in a section of tire and rolling the beads within that section in a way intended to establish maximum contact between the beads and rubber in order to determine if electrons would pass between the rubber and the beads. At the conclusion of that test, Van Vooren observed no evidence that any charge had transferred between the beads and the rubber. The second test involved placing the beads around an electrode to see if they would accept a charge from the electrode. There was no evidence that the beads had accepted any charge until the voltage in the electrode reached 8000 volts, an extremely high level. The third test established that the tire rubber was semi-conductive, meaning that charges can move within the rubber. Van Vooren also conducted several other tests in which he

attempted to transfer a charge to the glass beads. Those tests resulted in no evidence that a charge had been transferred to the beads. In July of 2000, Van Vooren conducted additional testing. He placed the beads in a tire which had a window cut into the sidewall, and rotated that tire at various speeds on a tire balancing machine. Van Vooren was able to see inside the tire at all times during the test. When the tire was rotated at slow speeds, the beads slid, rolled and tumbled along the surface of the tire the entire time the tire was rotating, establishing contact with the tire on most, if not all, of the surfaces of the beads. The tire was started slowly on occasion to simulate start up conditions and allowed to stop, both quickly and gradually. On every occasion that the tire was stopped, no matter how it had been rotated and stopped, the beads fell to the bottom of the tire and stayed there when the tire was rotated very slowly.

11. It is difficult to transfer electrons to or from the CBB beads under experimental conditions that fairly replicate the conditions of contact between the beads and the inner surface of a tire that will occur in the ordinary use of the beads.

12. The CBB beads can develop sufficient electrostatic charge to cling to a surface against the force of gravity. At least two layers of the CBB beads may cling to a surface if sufficiently charged. The beads, if sufficiently charged, will cling to a conductive surface, semi-conductive surface or non-conductive surface.

13. The CBB beads, after being sufficiently charged, will remain clinging to the surface until the charge on the surface of each bead leaks off. The CBB beads can be caused to cling to a rubber surface. The time during which the CBB beads will cling to a surface depends on the ambient conditions surrounding the beads, including the amount of moisture on the surfaces of the beads.

14. The CBB beads will charge due to contact electrification when they are captured within and rubbed within two pieces of tire butyl liner.

15. The conditions of an experiment involving rubbing glass beads inside two pieces of adjacent rubber do not materially replicate the conditions involving glass beads

inside a rotating tire for purposes of developing an electrostatic charge.

16. Defendant CBB demonstrated that the CBB beads do in some instances cling to truck tire inner surfaces after normal use and in normal operating conditions, but did not demonstrate that the beads do cling to truck tires due to the development of electrostatic charges on the beads.

17. CBB has failed to use identifiable and available testing methodologies to prove its position that the CBB beads perform as described in CBB advertisements. CBB has failed to prove that in instances where CBB beads are observed to be clinging to removed truck tire inner surfaces the clinging is as the result of electrostatic charges.

18. CBB claims in its advertising that the beads cling to the tire in a balancing position even after the tire has stopped moving. The manner in which the CBB beads product is represented by CBB to work is described in Patent No. 6,128,952. According to that Patent, the beads attain a balancing position as follows:

The heavy spot on the wheel assembly results in a centrifugal "G" force which compresses the suspension springs of the vehicle creating an up and down bouncing effect (a vibration). This constant force is enough to move the beads in the opposite direction of the heavy spot through inertia until it has counteracted the imbalance and the glass beads hold their position, this latter feature is described as electrostatic cling.

The Patent also contains a figure which the Patent says shows the "approximate location of the glass beads to counterbalance the imbalance in the wheel assembly." In that figure, the beads are depicted as gathering on the inside of the tire in an area opposite the heavy spot in multiple layers. CBB also describes the manner in which the beads work in its advertising:

The [beads] will be evenly distributed around the tire as it begins to roll through centrifugal force and starts to generate electrostatic cling.

As the centrifugal force of the out of balance (heavy spot) increases and pulls up and down on the suspension, the [beads] start to move in the opposite direction of the downward and upward travel through inertia.

The [beads] continue to travel until the complete wheel assembly is balanced.

The advertising contains six drawings. In those drawings, the beads start out distributed evenly around the tire. In the final picture, the beads are gathered in layers on the spot

opposite the heavy spot. The patent and advertisements depicting the balancing position of the beads when the tire is balanced involves a significant clustering of the beads on the side of the tire away from the heavy spot.

19. CBB presented testimony and videotape which purported to describe and show beads "clinging" to the inside of the tire in a balanced position as a result of electrostatic cling. In each case, the witnesses stated that the tire had been removed from the wheel and left standing exposed to normal or high humidity for some period of time. It is unlikely that the beads could electrostatically cling to the surface of the tire after exposure to the weather for the periods of time described by the witnesses. It is more likely that the observed clinging is the result of a different cause.

20. The beads in D.Exh. 10 that Mr. Van Pelt stated were clinging were discolored. There were dark liquid stains throughout the inner surface of the tire. The discoloration and stains and absence of electrostatic testing support the inference that an evaporated liquid had caused a coagulation, congelation and fixation of the beads more likely than that electrostatic cling was the cause of the apparent fixation.

21. There are at least three explanations for beads to have been sticking to tire inside walls in the absence of electrostatic cling:

- a. The presence inside the tire of a lubricant used to remove the tires from the wheel.
- b. The presence in new tires of a tacky mold release used to ease separation of the tire from the mold on which it is made.
- c. The fact that the beads set or lodged into crevices or ridges on the inner surface of the tire.

III. Discussion.

The case involves the advertising and sale of a product that probably has a high degree of intuitive appeal to truck drivers because it is a product that seems to give rise to an intuitive reaction that it provides a simple and scientifically logical solution to the vexatious problem of imbalances in truck tires. The product is fungible glass beads, packaged by weight in plastic bags, intended to be used by the insertion of the appropriate quantity of the beads into the air-filled pressurized cavity formed by the joining of the tire and the wheel. The product can be inserted before the tire is mounted on the wheel, or it can be inserted with the use of an applicator through the valve stem. The theory as to how the

product balances an out-of-balance truck tire is that during the rotation of the tire in the course of the movement of the truck the beads disseminate throughout the cavity inside the tire wall. The theory of an internal balancing product is that the dissemination does not occur in a manner that results in merely an equal distribution of the product around the circumference of the outer boundary of the air-filled cavity but rather that the product becomes distributed in a way that reduces imbalance in the tire by offsetting heavy areas in the tire perimeter with a counterbalancing weight formed by the gathering of a quantity of the product in the perimeter at a place diametrically opposed to the heavy tire area(s).

Although there is no admission on the part of the plaintiff, who markets a product using the same basic premise, that the glass beads do so distribute themselves during the movement of the truck, this is not the core of the dispute here. Here, the core of the dispute involves an additional theory of utility advanced by CBB for its product, that it not only migrates during operation to the areas within the tire cavity that bring about a balanced tire, but that it also stays in place upon a cessation of truck operation, so that upon again starting up the truck driver need not experience a period of rough riding imbalance and a wait for redistribution before tire balance is

restored but will experience rather a retention of the same state of balance that had been attained when the truck had previously come to a stop. The theory of the defendant company that its product achieves this continuity of balancing distribution is based upon the theory that the glass beads become electrostatically charged during periods of truck movement as the result of the process of multiple energetic contacts during movement with the rubber inner tire wall and that the beads retain the charge and the correlative electrostatic clinging when the vehicle stops.

We have concluded that the plaintiff has presented adequate evidence to prove by a preponderance that the beads do not electrostatically cling to the tire's inner walls. We have concluded that CBB, while establishing through videotaped and anecdotal evidence that the glass beads product clings to inner walls of tires in many instances, has not proven that the observed clinging is electrostatically caused. Nor has the defendant otherwise proven that the CBB beads achieve any significant or material electrostatic cling in the tire cavity environment.

The fact that the defendant does not prove that the observed and displayed adhesion of some beads to some tire walls is the product of an electrostatic attraction is in the context here fatal to the defendant's case in the view of the court. The means of establishing whether or not electrostatic energy was present in the beads and/or the adjacent rubber tire wall exists. The presence or absence of electrostatic forces could have been tested. The defendant failed to obtain and to present such an obvious form of proof. The circumstantial evidence attendant to the videotaped presentation of beads clinging to the interior tire walls of a removed tire in apparent contradiction of gravity-based expectations, principally an apparent intermixture of dirt or some other discoloring composition, in the absence of evidence of electrostatic energy and in consideration of the expert testimony from both electrostatic and materials experts that electrostatic energy dissipates over time, supported more strongly an inference of an adhesion caused by the presence of a mixture of dirt, moisture and beads from which mixture the moisture had evaporated.⁶

⁶There is, it must be noted, evidence that may be seen to undermine this latter inference as well, principally the plaintiff's expert tire dynamics evidence that yielded the inference that the forces within a tire caused upon each rotation by the indentation of a portion of the tire's
(continued...)

The method of proof of whether the product, the glass beads, adheres or clings to the inner tire walls as the result of electrostatic cling was clearly suggested by the evidence in this case. The defendant can not show and does not argue that when there is glass adhering to rubber as the result of electrostatic forces there is not a method of scientifically, objectively detecting the presence of electrostatic energy in the glass beads. Nevertheless, the defendant asks the court to infer the fact of an electrostatic cling from observing a videotaped scraping of glass beads from their location of adhesion to the inner wall of tires removed from a truck that had gone some distance with the glass beads installed in its tires. This inference will not be drawn, for the following reasons. First, the failure to test for electrostatic cling is unexplained and inexcusable in view of the availability of such a testing method and the pendency of this adjudication. Second, there is in the videotaped presentation an indication of fine dust or dirt intermixed with the beads, which tends to support the inference that the beads came to be clinging by way of a process of combined moisture, dust, beads and drying. The

⁶(...continued)

circumference (the "footprint") and resulting in the repeated dislodging of centrifugally positioned beads would not permit the set up of a drying beads-dirt-moisture mixture.

possible effect of the beads' silicone coating is also a factor that seems not to have been explored in seeking an explanation for the adhesion. Third, when the beads are scraped and fall away in the demonstrative video, there's no indication of any attraction of any of the beads back to the surface from which they are scraped or to any rubber surface. Fourth, no tire with adhering glass beads such as was depicted in the video was presented in court at trial, as could well have been done if in any cases the defendant has observed such clinging glass beads in a removed tire. Fifth, the demonstrative in-court experiments where an electrostatic charge was achieved with glass beads entrapped within two closely adjacent pieces of rubber tire liner rubbed over the glass beads suggested that it is the multiple and repeated contacts of the beads with the rubber achieved in the rubbing process combined with the physical entrapment of the beads within the layers of rubber that causes a clinging phenomenon. No persuasive basis is presented to infer that this experiment replicates the inside of a tire cavity of a tire in motion. A correlation of the experimental environment to that occurring inside truck tires was not demonstrated, and it is closely noted that plaintiff's experiments did involve truck tires' inside cavities.

This product is patented. Mr. LeBlanc, the President of CBB, who is not a scientist, had an idea in the concept of a retained balance product that has an intuitive appeal from a utilitarian perspective and perhaps from a technical perspective. However, without disciplined experimentation using a scientific method to test the hypothesis that glass beads would cling through electrostatic dynamics to the inner walls of a tire and would remain in a clinging position when the tire's motion had ceased, he advanced that proposition in a patent application and in advertisements for his glass beads product. The evidence presented in the trial of this case by his competitor consisted of a series of experiments reasonably calculated to replicate the putative electrostatic clinging effect of the glass beads without achieving that effect. The evidence is adequate to establish by a preponderance of the evidence that the glass beads product does not work as it is depicted to work in CBB's advertisements. It then became the burden of CBB to demonstrate that the product does work as advertised. The way to do this, or at least the most obvious and probative way to do this, was to demonstrate the results of a scientifically sound experiment or series of experiments testing the hypothesis that the glass beads cling to the inside of truck tires, after having been used therein for a certain

time or distance, as the result of electrostatic cling. The defendant made no such a showing. There is no evidence of any scientific experimentation with the glass beads in use in truck tires by the defendants. The defendant's evidence demonstrates that the glass beads can charge in contact with rubber. This was demonstrated by capturing and rubbing the beads between pieces of rubber tire liner. In supplementation of this evidence, which this fact finder sees to have involved an environment very dissimilar to the experience of a quantity of beads inside the cavity of a truck tire, the only evidence of the defendant is uncontrolled, scientifically untested, anecdotal evidence supplied by truck tire professionals who have viewed removed tires. The testimony of these professionals from the industry is given weight and deference insofar as it concerns their observations, but not insofar as it concerns the physical cause(s) for the clinging beads that was observed.

When we inquired of the defendant why an appropriate experiment could not be devised to demonstrate that as defendant asserts the product clings electrostatically, the defendant's response was legalistic, asserting that the burden was on the plaintiff to show that the product does not work.

Tr. 216. There is no assertion by the defendant that such testing is not scientifically or practically feasible. Since as stated above the fact finder finds that the plaintiff proved by a preponderance of the evidence that the product does not work, the absence of scientifically probative evidence demonstrating that the product works is dispositive unless the combination of evidence that glass beads can charge in contact with rubber and the evidence that removed tires were observed to contain beads ostensibly clinging to tire walls is considered to be adequate to show that the beads do work as advertised.

The defendant argues that an injunction here against the advertising at issue would be inconsistent with and should be precluded by the patent that it has for the glass beads product. The defendant asks the court to compare this case to *Zenith Electronics Corporation v. Exzel, Inc.*, 182 F.3d 1340 (Fed. Cir. 1999), a Lanham Act case where statements had been made by a patent holder about potential infringement of its patent. The *Zenith* case is plainly inapposite. In that case, the statements that were the subject of the Lanham Act false advertising claim had addressed the existence and the effects of patents.

This case raises issues of priorities among conflicting federal laws, as well as federal preemption of state law. Specifically, the questions raised are whether a federal unfair competition claim irreconcilably conflicts with and is therefore barred by federal patent or antitrust law; and whether, under the same or similar circumstances, the federal law preempts state unfair competition claims.

Exzec, Inc. ("Exzec") alleged that Elo Touchsystems, Inc. ("Elo Touch") had made statements to potential customers of Exzec to the effect that Exzec's product infringes certain Elo Touch patents and that Exzec could not manufacture a noninfringing product, and that these statements were false. On the basis of that allegation, Exzec alleged violations by Elo Touch of a § 43 of the federal Lanham Act, and of the state's unfair competition laws.

182 F.3d at 1342. Even some kinds of claims that do involve the scope and effect of a patent are actionable under the Lanham Act § 43(a), *Zenith* acknowledges. The present case involves representations that do not involve the fact that there is a patent, do not involve the scope or nature of the patent and do not involve claims of patent infringement or the absence of patent infringement. The Lanham Act § 43(a) claim here can go forward and be considered without any reference to and without any consideration of the patent. Counteract Balancing Beads here seeks to have the court consider the fact of the patent in some manner as an official affirmation of the

efficacy of the patented product that constitutes a shield against a Lanham Act claim that the product does not work as advertised. The patent gives to the patentee the right to the unfringed commercial exploitation of the idea represented by the patent, but not the right to an inviolate assertion that the product works in the manner that it is claimed in advertisements to work, even when that is substantially how in the patent application it was claimed to work.

One example of the kind of difficulty that could arise if the idea were accepted that the fact of the patent gives rise to a Lanham Act shield can be seen from the first page of Mr. LeBlanc's patent. Counteract Balancing Beads acknowledges that the diagram on that page presents a depiction of a distribution of glass beads within a tire that has been purposefully distorted to provide a vivid illustration of the counterbalancing effect that is claimed for the product. But there is not language or a graphic indication in the patent that this depiction is an exaggerated depiction of the patent applicant's theory. Were it to be claimed in advertising that the illustration in the patent depicts the product at work in a tire, a claim that could cause many consumers to infer that the beads migrate to and stay in a location opposite to a heavy

spot in the tire and do so in a concentrated and roughly mirror image formation, the patentee if shielded by the patent could then assert the advertised depiction to be protected by the patent even when it is clear that it does not perform in this manner. See, also, Patent Fig. 3.

The patent contains no findings made by an independent examiner or adjudicator.

It is not in dispute that the language in the patent was drafted by the applicant.

Assuming that a determination of fact made by a government agency with particular expertise in a certain subject matter area is entitled to an appropriate deference or weight, this case presented no occasion to apply such a principle since the defendant made no principled showing that in patenting the CBB beads the Patent Office had made in fact or necessarily impliedly made a finding that the beads have all of the qualities and characteristics attributed to them in the advertisements, in the patent application and in the patent.

We do not agree with the defendant that its patent precludes the entry of an injunction against representations made in its advertising of the beads on the grounds that such an injunction would be inconsistent with or should be precluded by the patent. The rights of the defendant under the patent do not extend to wholly precluding a finding of facts in a case under the Lanham Act testing the truthfulness of representations about the qualities or characteristics of a patented product.

IV. Conclusions of Law.

1. Section 34 of the Lanham Act, 15 U.S.C. § 1116(a), authorizes federal courts to grant injunctions in order to "prevent a violation under 1125(a) of this title." This Court has jurisdiction over the subject matter of this lawsuit under 28 U.S.C. § 1331 because it arises under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

2. The plaintiff proved by a preponderance of the evidence that the product does not work as advertised and that the representations made in the advertisements are not true.

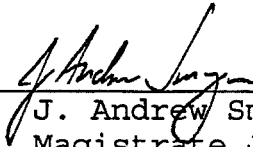
The defendant did not present evidence adequate to rebut the evidence of the plaintiff or to show that the product does work as advertised and that the representations made in the advertisements are true.

3. CBB, Inc., the defendant, has in connection with goods used in commerce made false and misleading descriptions and representations of fact which, in commercial advertising and promotions, have misrepresented the nature, characteristics and qualities of goods of CBB, Inc.

4. IMI, the plaintiff, a competitor of CBB, Inc. in the relevant market, is likely to have been and is likely to continue to be damaged by the false and misleading representations of fact by CBB, Inc.

5. The plaintiff is entitled to a permanent injunction enjoining the defendant from representing that CBB glass beads employ electrostatic cling or that CBB glass beads stay in a balanced position when the tire has stopped as the result of electrostatic cling or that CBB glass beads will be a balanced position when the tire starts up as a result of electrostatic cling.

The injunction sought by the plaintiff will be granted.
A separate Order will be entered.



J. Andrew Smyser
Magistrate Judge

Dated: September 14, 2001.

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

INTERNATIONAL MARKETING, INC.,	:	CIVIL NO. 1:CV-00-0697
	:	
Plaintiff	:	(Magistrate Judge Smyser)
	:	
v.	:	
	:	
COUNTERACT BALANCING	:	
BEADS, INC.,	:	
	:	
Defendant	:	

FILED
HARRISBURG, PA

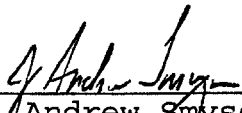
SEP 14 2001

MARY E. D'ANDREA, CLERK
PER 9-12 DEPUTY CLERK

ORDER

On the basis of the Findings of Fact and Conclusions of Law set forth in the Memorandum accompanying this Order, IT IS ORDERED that judgment is entered in favor of plaintiff International Marketing, Inc. and against defendant Counteract Balancing Beads, Inc. IT IS FURTHER ORDERED that defendant Counteract Balancing Beads, Inc. shall be and is hereby enjoined from making any statements to the public, its customers and potential customers in which it states or otherwise leads people to believe that Counteract Balancing Beads cling to the inside

of a tire in a balancing position as a result of electrostatic cling.



J. Andrew Smyser
Magistrate Judge

Dated: September 14, 2001.

A 450 (Rev. 5/85) Judgment in a Civil Case

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JUDGMENT IN A CIVIL CASE

INTERNATIONAL MARKETING, INC.,
Plaintiff

v.

CASE NUMBER:1:CV-00 -0697

COUNTERACT BALANCING BREADS, INC.,
Defendants

Mag. Judge Smyser

FILED
HARRISBURG, PA

SEP 14 2001

MARY E. D'ANDREA, CLERK
PER *[Signature]* DEPUTY CLERK

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that judgment be and is hereby entered in favor of the plaintiff, International Marketing, Inc. and against the defendant, Counteract Balancing Beads, Inc..

IT IS FURTHER ORDERED AND ADJUDGED that defendant, Counteract Balancing Beads, Inc. shall be and is hereby enjoined from making any statements to the public, its customers and potential customers in which it states or otherwise leads people to believe that Counteract Balancing Beads cling to the inside of a tire in a balancing position as a result of electrostatic cling.

September 14, 2001

MARY E. d'andrea, CLERK

Certified from the record

(By) George T. Gardner Deputy Clerk

Date 9-14-01
Mary E. D'Andrea, Clerk

Per *George T. Gardner*
Deputy Clerk

Exh G



Please choose a language below to enter the site.



Em
Portugues



English (USA)



English
(International)

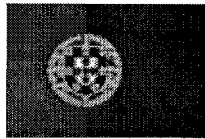


In Italiano

Exh H



Please choose a language below to enter the site.



Em
Portugues



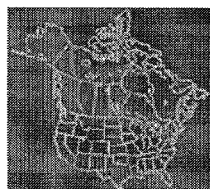
English (USA)



English
(International)



In Italiano



To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



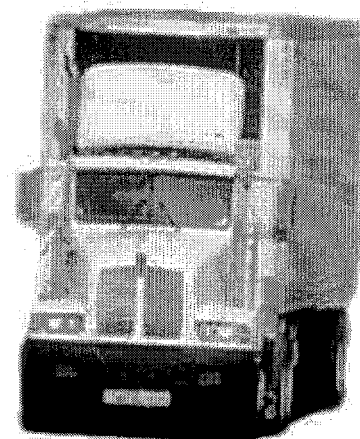
**-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

www.counteractbalancing.com

Welcome

to Counteract Balancing
Beads Inc...

Revolutionizing the truck
tire balancing industry by
offering a new, patented*
superior technology
(kinetic cling tire
balancing) which will
fulfill all of your tire
balancing needs efficiently
and economically.



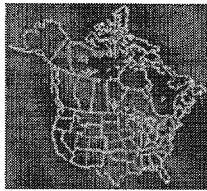
Here you will find information about our company, our
product, and gain an easy way to get in contact with our
representatives.

Simply use the menu on the left to browse our site.

Thanks again for taking the time to visit, and please feel
free to contact us if you have any questions.

***Counteract Balancing Beads are manufactured according to
the description and disclosure of U.S. Patent No. 6,128,952,
issued on October 10, 2000"**

Copyright (c) 1999 Richard Colbourne, All rights reserved. Reproduction in whole or in part in any form or medium without express
written permission of Richard Colbourne is prohibited.



To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



**-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

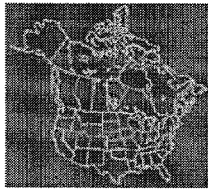
www.counteractbalancing.com

Company Info

**Counteract Balancing Beads
13029-8th Line, RR#1
Georgetown, Ontario
L7G-4S4**

**Phone: (905) 873-3339
Toll Free Phone: 1-800-572-8952
Fax: (905) 873-3088
E-mail: counterac@aol.com**

Copyright (c) 1999 **Richard Colbourne**, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of **Richard Colbourne** is prohibited.

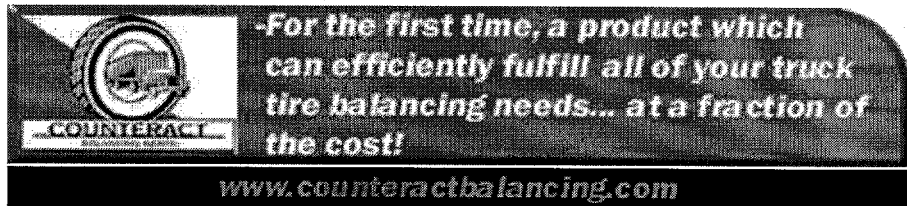


To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



Contact

Please feel free to give us a call, toll-free, at 1-800-572-8952, or fill out the form below and we will contact you at our earliest opportunity.

Name:

Company:

Street Address:

City: State/Province:

ZIP/Postal: E-Mail:

Phone Number: Ext.

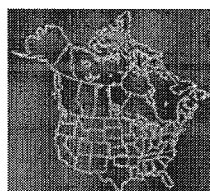
Fax Number: Ext.

Any questions or comments about our company or product?

Would you like to receive information on any new counteract products or applications?

YES ☐ NO ☐

Copyright (c) 1999 **Richard Colbourne**, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of **Richard Colbourne** is prohibited.



To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



**-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

www.counteractbalancing.com

Product Info

Counteract Balancing Beads was developed and marketed after many years of research. Now into our 4th year it is rapidly being accepted as a superior product in the truck tire industry and primed to replace previous technology

Click on link below for more information:

[How Does It Work?](#)

[What Problems Can Be Avoided Using Counteract Balancing Beads?](#)

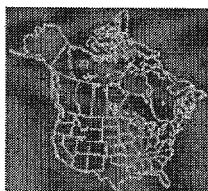
[How Do We Install Counteract Balancing Beads using the Bag-In-Bag method?](#)

[How Do We Install Counteract Balancing Beads using the Injection Method?](#)

[How Many Bags Will I Need?](#)

[Where Can We Purchase Counteract Balancing Beads?](#)

Copyright (c) 1999 **Richard Colbourne**, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of **Richard Colbourne** is prohibited.



To Locate A Dealer
call the Distributor
near you, select a
state/province from the
menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



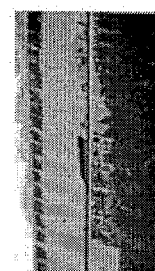
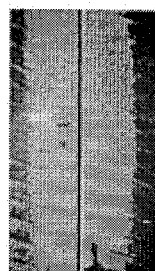
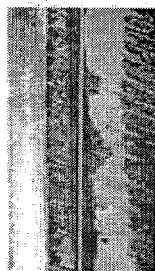
**-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

www.counteractbalancing.com

How It Works

At a speed of 60 miles per hour the tire revolutions per mile would be an average of 550 revolutions per minute. As a result of centrifugal force, the 6 oz. out of balance, or what is commonly referred to as the "heavy spot", will multiply itself to 60 pounds. As the suspension of the vehicle only allows for vertical motion, the 60 pounds of centrifugal force will compress upwards and downwards on the suspension 550 times per minute, which can be reinterpreted as 1100 shock waves.

Vibration is maximized when the resonating combined force of the rebound and the out of balance centrifugal force are aligned and working with reflex frequency of the suspension in unison at highway speeds; this dribbling effect sufficiently multiplies up and down forces so as to result in the tire bouncing off the road surface. This also explains why vibration is felt only at certain speeds, and why it can be exaggerated or reduced after hitting a bump. This effect can only be eliminated by altering speed (i.e. separating the out of balance and rebound force frequencies), or by balancing the tires and wheel assembly.



Dynamic Balance
(Right of Centre)

Static Balance

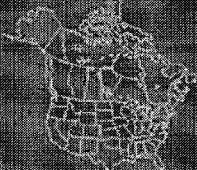
Dynamic Balance
(Left of Centre)

Counteract Balancing Beads are a new technology available to counteract the out of balance condition of truck tyres. Counteract Balancing Beads are manufactured under United States Patent No. 6,128,952.

During normal usage and operations, we and many of our customers have observed that when the tire is dismounted the glass beads remain flush against the tire lining. When the installer strikes the tire or a sudden shock is felt by the tire, then only will the glass beads disengage from the lining and fall free.

The Counteract Balancing Beads are manufactured under this patent. This product is environmentally friendly and will not react to any known chemicals. These unique characteristics result in providing the best of both worlds, the mechanical fixed weight balancing of tires and the automatic adjustment of internal balancing agents.

Copyright (c) 1999 **Richard Colbourne**, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of **Richard Colbourne** is prohibited.




To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



**-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

www.counteractbalancing.com

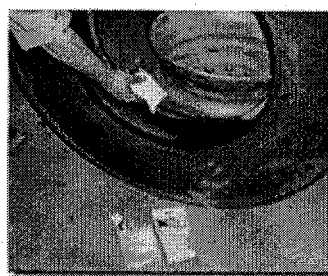
Bag-In-Bag Method

Now it's as easy as 1...2...3...

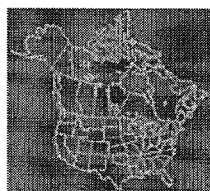
Counteract Balancing Beads is now offering a "Bag in Bag" Packaging. The tire installer simply opens the outside bag and throws the inside bag directly into the tire cavity. This method is highly preferred by tire installers and was specifically developed for use with the air blasting tool to seat the tire on the rim. This is a real time saver as it eliminates the necessity to use an application pump. The ultra light throw in bag will collapse with the increasing P.S.I. inside the tire which then releases the CBB. The ultra light throw-in bag partially evaporates with the running temperature of the tire and the remaining film clings harmlessly to the inside liner.

The new packaging is available in seven sizes for medium truck tires and is offered in addition to our regular packaging.

To find a distributor or dealer near you, or to receive additional information, call: 1-800-572-8952 or fill out the [contact form](#).



Copyright (c) 1999 Richard Colbourne, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of Richard Colbourne is prohibited.



To Locate A Dealer
call the Distributor
near you, select a
state/province from the
menu below.

United States

**Company
Information
Contact**

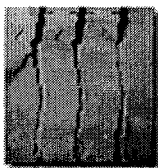
**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



*-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!*

www.counteractbalancing.com

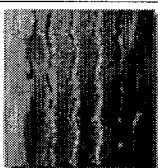
Avoidable Problems



Diagonal Wear:

Localized flat spot worn diagonally across the tread,
often repeating around tread circumference.

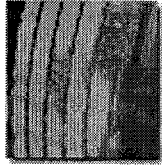
Caused by runout and/or out of balance in conjunction
with a slow rate of wear. Can develop from a brake
skid, spot wear, shoulder wear, or other advanced wear
conditions. Can also be caused by loose wheel bearings
and is aggravated by misalignment.



Cupping/Scallop Wear

Localized dished out areas of fast wear creating a
scalloped appearance around tire. Appears around the
tire on the shoulder ribs. May progress to adjoining
ribs.

Usually a result of moderate to severe assembly out of
balance condition, improper rim/wheel mounting or
other assembly non-uniformity. Can also be due to
lack of shock absorber control on some suspension
types.

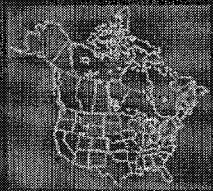


Erratic Depression Wear

Random erratic wear around tire circumference.

Lack of shock absorber control in some suspension types. Loose or worn wheel bearings, assembly non-uniformity such as improper bead seating and out-of-balance condition, aggravated by high speed empty hauls.

Copyright (c) 1999 **Richard Colbourne**, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of **Richard Colbourne** is prohibited.




To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**

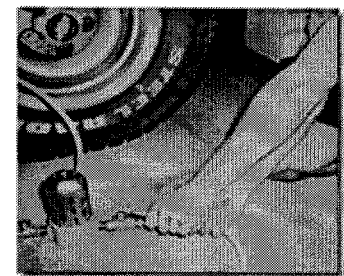


**For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

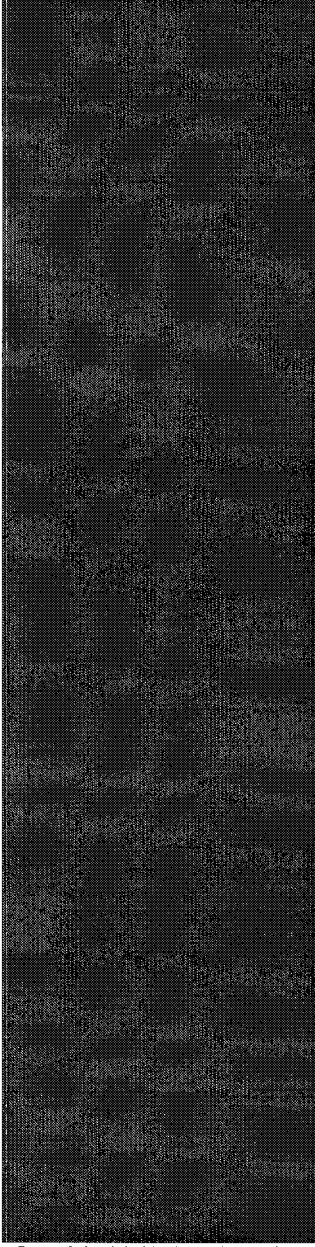
www.counteractbalancing.com

Injection Method

The Counteract Balancing Beads Injector Pump is assembled from quality tested manufacturer approved equipment, however *safety goggles* must be worn while using this high air pressure tool.



1. Make sure that both valve handles are in the closed position (90° angle from the brass valves)
2. For safety measures the metal guard has been permanently affixed to the plastic bowl container. To load the desired amount of Counteract Balancing Beads, remove the container by pulling down on the black slider with the red lock guide and turning approximately half inch to either side. Pull container in a downwards motion away from the blue housing.
3. Fill container with desired amount of packaged Counteract Balancing Beads.
4. Reattach container to blue housing by pushing together and turning left or right until the black slider with red lock guide snaps into place.
5. Place blue housing down with container on top enabling beads to enter housing chamber.
6. Make sure that your valve handles are still in the closed position. Install airline coupling to CBB injector pump.
7. Remove valve core from tire to be balanced and let



air pressure drop to approximately half the specified P.S.I. Attach the clip-on air chuck to tire valve stem ensuring that it is fastened securely.

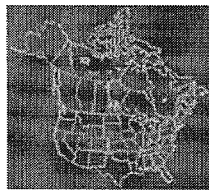
8. Turn valve handle to open position on air inlet side first and then turn valve handle on outlet side allowing CBB micro beads to be injected into the tire. This injection should take approximately 10 to 15 seconds. Allow an additional 10 seconds to make sure that the line is clear before closing both valves and removing air chuck from tire valve stem.

9. Reinstall the valve core and inflate tire to specified P.S.I.

10. Before next installation open outlet valves to remove any air pressure remaining in container. Make sure that rubber seal inside the blue housing is free of any left over particles. This will ensure easy opening and closing of container. It is also recommended that the rubber seal be lubricated periodically.

To find a distributor or dealer near you, or to receive additional information, call: 1-800-572-8952 or fill out the contact form.

Copyright (c) 1999 Richard Colbourne, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of Richard Colbourne is prohibited.



To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



**-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

www.counteractbalancing.com

APPLICATION


**Click here for a full, three page, printable chart
detailing the required amounts of Counteract Balancing
Beads needed for your job.**

**Note: Make sure you have print background colors and
images turned on. This can be done in Microsoft
Internet Explorer by clicking, Tools -> Internet Options
-> Advanced, then the check box beside "Print
background colors and images".**

Copyright (c) 1999 **Richard Colbourne**, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of **Richard Colbourne** is prohibited.

Tire Size	Single Wheel Position	Dual Wheel Position	Tire Size	Single Wheel Position	Dual Wheel Position
31/10.50 R15	4 oz. or 113 grams		33/14.50 R16.5		
31/11.50 R15	4 oz. or 113 grams		33/16.50R 16.5		
31/12.50 R15	5 oz. or 142 grams		35/12.50 R16.5	6 oz. or 170 grams	
31/14.50 R15	6 oz. or 170 grams		36/16.50 R16.5	8 oz. or 227 grams	
32/12.50 R15	6 oz. or 170 grams		37/12.50 R16.5	6 oz. or 170 grams	
33/12.50 R15	6 oz. or 170 grams		38/15.50 R16.5		
33/14.50 R15	6 oz. or 170 grams		40/17 B16.5		
33/16.50 R15	6 oz. or 170 grams		44/18.50 B16.5		
35/12.50 R15	6 oz. or 170 grams		265/70 R17	6 oz. or 170 grams	
36/16.50 R15	8 oz. or 227 grams		8 R17.5	5 oz. or 142 grams	5 oz. or 142 grams
37/12.50 R15	8 oz. or 227 grams		8.5 R17.5	6 oz. or 170 grams	6 oz. or 170 grams
38/15.50 R15	8 oz. or 227 grams		9 R17.5	6 oz. or 170 grams	6 oz. or 170 grams
40/17 B15	8 oz. or 227 grams		10 R17.5	8 oz. or 227 grams	8 oz. or 227 grams
44/18.50 B15	8 oz. or 227 grams		11 717.5	8 oz. or 227 grams	8 oz. or 227 grams
			195/60 R17.5	4 oz. or 113 grams	4 oz. or 113 grams
195/65 R16	4 oz. or 113 grams	4 oz. or 113 grams	205/60 R17.5	4 oz. or 113 grams	4 oz. or 113 grams
245/65 R16	4 oz. or 113 grams	4 oz. or 113 grams	225/60 R17.5	4 oz. or 113 grams	4 oz. or 113 grams
305/65 R16	4 oz. or 113 grams	4 oz. or 113 grams	195/70 R17.5	4 oz. or 113 grams	4 oz. or 113 grams
225/75 R16	4 oz. or 113 grams	4 oz. or 113 grams	215/70 R17.5	5 oz. or 142 grams	5 oz. or 142 grams
245/75 R16	4 oz. or 113 grams	4 oz. or 113 grams	235/70 R17.5	5 oz. or 142 grams	5 oz. or 142 grams
265/75 R16	4 oz. or 113 grams	4 oz. or 113 grams	205/75 R17.5	5 oz. or 142 grams	5 oz. or 142 grams
285/75 R16	4 oz. or 113 grams	4 oz. or 113 grams	215/75 R17.5	6 oz. or 170 grams	6 oz. or 170 grams
215/85 R16	4 oz. or 113 grams	4 oz. or 113 grams	225/75 R17.5	6 oz. or 170 grams	6 oz. or 170 grams
225/85 R16	4 oz. or 113 grams	4 oz. or 113 grams	235/75 R17.5	6 oz. or 170 grams	6 oz. or 170 grams

[Click Here For Page 2](#)



**-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

www.counteractbalancing.com

To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**

Contact

Please feel free to give us a call, toll-free, at 1-800-572-8952, or fill out the form below and we will contact you at our earliest opportunity.

Name:

Company:

Street Address:

City: State/Province:

ZIP/Postal: E-Mail:

Phone Number: Ext.

Fax Number: Ext.

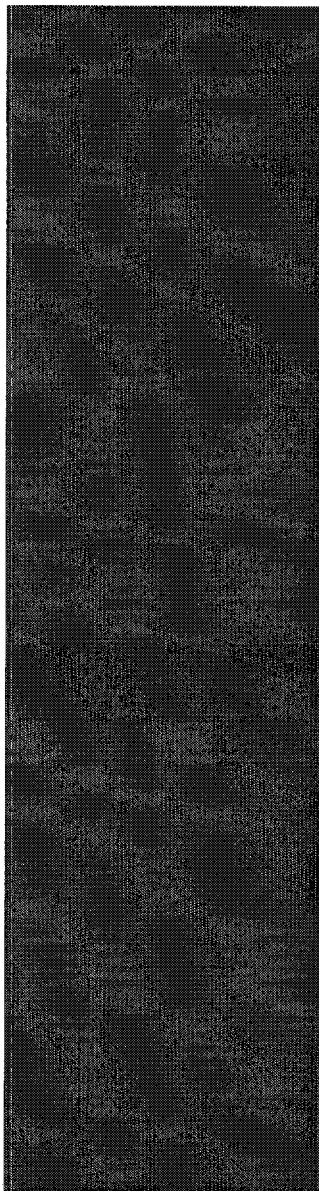
Any questions or comments about our company or product?

Would you like to receive information on any new counteract products or applications?

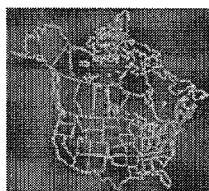
YES ☒ NO ☐



Copyright (c) 1999 **Richard Colbourne**, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of **Richard Colbourne** is prohibited.



Copyright (c) 1999 **Richard Colbourne**, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of **Richard Colbourne** is prohibited.



To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**

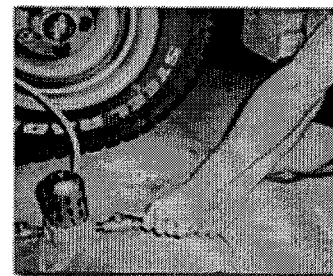


**-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

www.counteractbalancing.com

Injection Method

The Counteract Balancing Beads Injector Pump is assembled from quality tested manufacturer approved equipment, however *safety goggles* must be worn while using this high air pressure tool.



1. Make sure that both valve handles are in the closed position (90° angle from the brass valves)
2. For safety measures the metal guard has been permanently affixed to the plastic bowl container. To load the desired amount of Counteract Balancing Beads, remove the container by pulling down on the black slider with the red lock guide and turning approximately half inch to either side. Pull container in a downwards motion away from the blue housing.
3. Fill container with desired amount of packaged Counteract Balancing Beads.
4. Reattach container to blue housing by pushing together and turning left or right until the black slider with red lock guide snaps into place.
5. Place blue housing down with container on top enabling beads to enter housing chamber.
6. Make sure that your valve handles are still in the closed position. Install airline coupling to CBB injector pump.
7. Remove valve core from tire to be balanced and let

air pressure drop to approximately half the specified P.S.I. Attach the clip-on air chuck to tire valve stem ensuring that it is fastened securely.

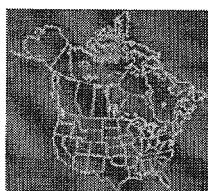
8. Turn valve handle to open position on air inlet side first and then turn valve handle on outlet side allowing CBB micro beads to be injected into the tire. This injection should take approximately 10 to 15 seconds. Allow an additional 10 seconds to make sure that the line is clear before closing both valves and removing air chuck from tire valve stem.

9. Reinstall the valve core and inflate tire to specified P.S.I.

10. Before next installation open outlet valves to remove any air pressure remaining in container. Make sure that rubber seal inside the blue housing is free of any left over particles. This will ensure easy opening and closing of container. It is also recommended that the rubber seal be lubricated periodically.

To find a distributor or dealer near you, or to receive additional information, call: 1-800-572-8952 or fill out the contact form.

Copyright (c) 1999 **Richard Colbourne**, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of **Richard Colbourne** is prohibited.



To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



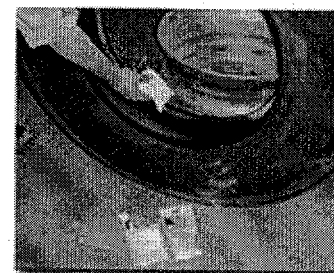
**-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

www.counteractbalancing.com

Bag-In-Bag Method

Now it's as easy as 1...2...3...

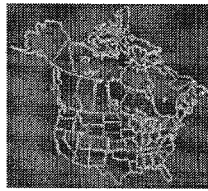
Counteract Balancing Beads is now offering a "Bag in Bag" Packaging. The tire installer simply opens the outside bag and throws the inside bag directly into the tire cavity. This method is highly preferred by tire installers and was specifically developed for use with the air blasting tool to seat the tire on the rim. This is a real time saver as it eliminates the necessity to use an application pump. The ultra light throw in bag will collapse with the increasing P.S.I. inside the tire which then releases the CBB. The ultra light throw-in bag partially evaporates with the running temperature of the tire and the remaining film clings harmlessly to the inside liner.



The new packaging is available in seven sizes for medium truck tires and is offered in addition to our regular packaging.

To find a distributor or dealer near you, or to receive additional information, call: 1-800-572-8952 or fill out the [contact form](#).

Copyright (c) 1999 Richard Colbourne, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of Richard Colbourne is prohibited.

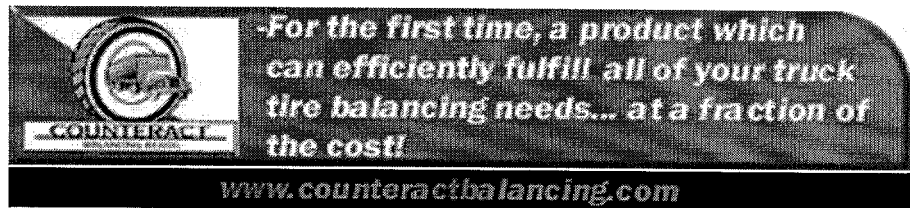


To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

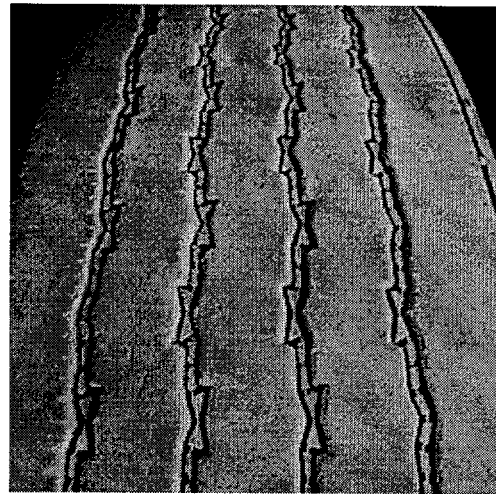
United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



Testimonials



Perfect Balance - Perfect Wear

It has been reported that steering tires using Counteract Balancing Beads have recorded more than 200,000 miles.

For Further Information Call 1-800-572-8952

"We have been selling Counteract Kinetic cling balancing beads for over 2 1/2 years in Quebec. The only complaint that we had was from our French only speaking dealers and transport companies, that they did not understand why counteract was clinging to the tire inside liner. Counteract rectified the problem by printing the brochure in French explaining the Kinetic cling."

Pierre Warren (Que-Mont Equipment Inc.)

"We have been selling and promoting Counteract Balancing

Beads for almost four years. In that time we have been very satisfied with what the product promises. we have witnessed first hand that the balancing beads do in fact cling to the inner liner of tubeless tires. We are very happy with Counteract's performance and will continue selling the product."

**David Bath (Purchasing Manager -
Dalee Enterprises LTD.)**

"This product practically sells itself. Sales have been better than ever expected. This stuff works.

**Robbie Mattson (Supply Specialist -
Heafner Tire Group #55)**

"We suggest balancing most of the truck tires that we mount with Counteract Balancing Beads. We found that trucks with aluminum rims tend to sling the stick-on weights often. With Counteract they are not worried about a tire being out of balance. Counteract is a great product and we look forward to satisfying our customers balancing needs with Counteract.

Jimmy Shumaker (Heintschel Truck Tire Center)

"I have worked for Tire-Ex Supply Ltd. for approximately 7 years, most of which time has been spent on the road selling equipment and supplies to tire shops in the Edmonton area. This job takes me in to tire shops on a daily basis. We currently sell the Counteract product, primarily for use on medium trucks and my customers are very satisfied with the product.

Counteract, like other products that we have carried, balances the tire into which it is placed by distributing itself to the out of balance spot in the tire as the wheel rotates. A major advantage of the Counteract product over other products we previously sold is that the Counteract clings to the liner of the tire even after the wheel stops rotating, thus maintaining the balance in stop and go driving. I have observed this clinging on numerous occasions on tires being serviced in tire shops that I call on and it is a attribute that is valued by my customers and their clients."

James Law (Sales Representatvie - Tire-Ex Supply LTD.)

"My name is Jim Reed; I have been working in the tire replacement industry for over 25 years. I'm presently the owner/manager of one of the Beverly Tire locations at 110 Cidermill Avenue in Concord, Ontario, Canada. I sell Counteract to over 90% of the steering tires that I sell here; my customers like the product and have no problems with it. I also sell it for use in motorcycles, motor homes, off-road 4X4's, bus companies and transports, and it works well in all these applications. I have witnessed over 100 tires with the product clinging when taken off. Previously we used a different product without cling and the customer complained that as the tire was building up speed, it was worse than no balance at all after every stop. Kinetic cling solved that problem."

Jim Reed (Owner/Manager - Beverly Tire)

"I want to thank you and your company for all the support. We have sold your product for over a year. We've had nothing but excellent response from our customers. I wish Equal had never been sold in my area because; most customers were unsatisfied with Equal. Customers hesitate to try Counteract because of their dissatisfaction with Equal. If I received the same support from my other vendors that your company gives, I would be a millionaire. Counteract Balancing Beads are a trouble free product and I have not had a single complaint. You could not make a product easier to sell, our customers love the cleanliness of the Kinetic Cling, with your guarantee and confidence; it's a distributors dream."

Jeff Prier (President - Prier Tire Supply Inc.)

"We switched from Equal to Counteract four years ago because Equal would ball up (clump) if moisture was present in the tire. In four years of using Counteract we haven't had one problem with balling or clumping. I have also witnessed the Kinetic Cling clinging to the liner."

Neil Pace (Nesel Transport)

"My name is Ron Dolan; I'm employed by T&T McKee Tire of Owen Sound Ontario. I have been in the truck tire business since 1960. I have witnessed Counteract Balancing Beads clinging to the truck tire inside liner many times. We sell Counteract to our customers and it works great.

Ron Doland (T&T McKee Tire of Owen Sound)

"I, Dave Blackwood have worked for Ray's Tire Depot for the past 3 years. During this time I have installed and have seen installed thousands of Counteract Balancing Beads applications in tires. I have also seen and dismantled over a thousand worn out tires with Counteract Balancing Beads clinging to the inside of the tires, just like the one that Roger LeBlanc video taped here yesterday, May 16, 2001 and the one in the Counteract brochure.

Dave Blackwood (Ray's Tire Depot)

"The pictures in Counteract Balancing Beads brochure were taken in my tire shop, Ray's Tire Depot on Britannia Road, Mississauga Ont. I saw this tire being taken off the vehicle and dismantled with the Counteract clinging to the liner, along with hundreds of other tires that CBB was clinging to the inside liner as well. We sold this customer the product CBB that was used on the steering tires of this truck and the customer reported that this tire was run for 200,000 miles. Roger LeBlanc called me this morning and asked to call him next time a tire with CBB came in and I told him that one had just come in yesterday, he asked me to hold it and that he was coming to take a video of it."

Ray Blackwood (Ray's Tire Depot)

"I am writing this letter to validate Counteract Balancing Beads claim of kinetic cling. As a salesman for Dugco Supply, Inc. I have numerous customers using this product. I recently made a sales call on one of these customers, and he had a set of tires demounted from the rim because one of the tires was defective from his distributor. He had installed Counteract when he mounted the tires, and when I examined the tires myself the installed Counteract was still clinging to the inner

liner of all four tires."

Richard Harper (Dugco Supply, Inc.)

"Dugco has been actively promoting Counteract Balancing Beads for over a year. During this time we have experienced tremendous success with this product. It's ease of application and overall excellent performance have made Counteract one of the main products in our overall product offering.

One of the main reasons the product has been so successful as it has been is the kinetic cling. The kinetic cling factor has overcome concerns about the tire wheel assembly having to rebalance itself after having come to a complete stop, as centrifugal balance powder product must. Also, the absence of necessity of a filtered cone coupled with Counteracts much greater ability to withstand moisture have rendered it successful in addressing the key objections from other competing products.

We have never had problems with this product not working nor in living up to any of the stated descriptions of how it works. Dugco Supply intends to make this product one of our primary offerings well into the future."

Albert L. Sealy, III (President - Dugco Supply, Inc.)

"As you know, we looked at "Counteract" over two years ago. To be completely honest, we were somewhat skeptical. However, during these past two years "Counteract" has proven to do just what you claimed it would do. It works extremely well, and I know of absolutely no complaints regarding this product. The only complaints seem to be coming from the competition, those who have been around for some time, and resent your encroachment into they consider to be their market.

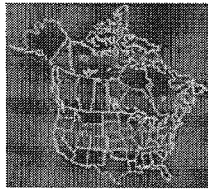
Customer response to our marketing efforts, both domestically and internationally, thus far have been very encouraging. At the end of the day, I am confident that "Counteract" will do very well indeed. We are pleased to be one of your Master Distributors."

Ed Kozlowski (Wheel Weights International Corp)

"We at Eastmen Tire Supplies, Inc. have been selling Counteract Kinetic Cling Balancing System for several years to tire shops in Pennsylvania. This product has worked well for us. Customers like the ride it gives and that it doesn't clump with moisture. With Counteract's ability to cling to the inner liner, we've been very happy with the product."

David L. Harrington (President - Eastmen Tire Supplies, Inc.)

Copyright (c) 1999 Richard Colbourne, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of Richard Colbourne is prohibited.



To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



**-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

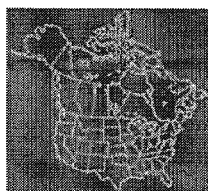
www.counteractbalancing.com

APPLICATION

**Click here for a full, three page, printable chart
detailing the required amounts of Counteract Balancing
Beads needed for your job.**

**Note: Make sure you have print background colors and
images turned on. This can be done in Microsoft
Internet Explorer by clicking, Tools -> Internet Options
-> Advanced, then the check box beside "Print
background colors and images".**

Copyright (c) 1999 Richard Colbourne, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of Richard Colbourne is prohibited.



To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



**-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

www.counteractbalancing.com

F.A.Q.

Why should I balance my tires?

Balancing tires reduces rolling resistance by decreasing tire side wall flexing, tread squirming, and friction. This translates to fuel savings, as a wheel or engine turns more easily if balanced. In today's trucking industry, it just makes sense to balance all tires in the wheel assembly to provide a safer and more economical ride.

What are the advantages of *Counteract Balancing Beads* over other internal balancing agents?

During normal usage and operations, we have observed that Counteract Balancing Beads cling to the truck tire inner liner. As our customers have also repeatedly seen, the CBB cling to the liner of the tire even after the wheel stops rotating. Also the CBB are a clean product. The CBB have had the dust removed prior to packaging of the product, and during use the product does not break down. Dust is not a problem with CBB. The CBB are manufactured under U.S. Patent No. 6,128,952; *Counteract Balancing Beads* avoid all of these problems.

What are the advantages of *Counteract Balancing Beads* over lead weight balancing?

Counteract Balancing Beads will continue to balance for the complete life of the tire because it can readjust the balanced position as required... which, of course, lead weights are unable to do. *Counteract Balancing Beads* balance the complete wheel assembly in all wheel positions on both truck and trailer, and are able to do so economically. Counteract is protected from road hazards and obstructions inside the tire, and will not fall off as lead weights can do... saving the environment from the problems caused by lead weights.

What are the advantages of *Counteract Balancing Beads* over balancing rings?

Unlike balancing rings, Counteract does not have to go through a vibration and eventual balancing after every stop. Counteract is protected inside the tire from road hazard damages. Counteract is considerably less expensive than a balancing ring, and is also reusable.

Will the product react to any known materials?

No, *Counteract Balancing Beads* will not react with any known metal or material.

Is the product affected by moisture?

No, Ambient moisture does not generally affect the product's performance once the product is loaded and used in the tire, because the relative humidity inside the tire decreases after the tire heats up during normal operation and use.

Will the kinetic cling adjust as necessary to keep the wheel assembly balanced at all times?

Yes. Because the "kinetic cling" force is only a fraction of the strength of the 160 g's produced at 60 mph in a medium truck tire, or 320 g's in a passenger tire, the kinetic cling is free to readjust itself in order to keep the wheel assembly balanced at all times.

How do I remove the product from the tire?

Our product is easily removed simply by striking the tire with a tire iron several times along the tread. This will cause the material to fall to the bottom of the tire.

Do you need a valve filter to prevent the valve from clogging?

No, valve clogging is not a common problem with our product. We remove all dust from the material after manufacturing, as dust is the cause of valve clogging. Further, due to our unique kinetic cling balancing method, no dust is produced as the product performs its functions.

How long does the "kinetic cling" property last?

It is known that even after 200,000 miles the "kinetic cling" will still work effectively. The *Counteract Balancing Beads* can be knocked down if the truck hits a rough road at low speeds... however, the *Counteract Balancing Beads* will quickly reposition as the vehicle regains highway speed.

Can you balance a tire with Counteract on a tire balancer?

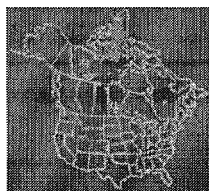
No... the *Counteract Balancing Beads* will only move to the balanced position through inertia which is generated by the out of balance condition and the up and down motion of the suspension while counteracting the out of balance condition.

How is the product installed?

There are three different methods of installation of *Counteract Balancing Beads*. The simplest and most preferable is the method that uses the throw-in bag in bag packaging. This method involves simply throwing the inside bag into the tire while installing new tires. The air pressure in the tire will collapse and burst the bag, allowing the material to get to work quickly. An airblaster can be used to seat the tire with this method. The second method is to pour the material directly into the tire during installation. The third method is to remove the valve core, remove approximately half of the tire's air pressure, and inject the material directly into the valve with our injector pump. We provide detailed instructions on how to complete all of our installation methods.

Will *Counteract Balancing Beads* work in passenger vehicles?

We are presently field testing our product for passenger tire use, and are achieving some very encouraging results. This has been done by adjusting the strength of the "kinetic cling" force for passenger tire use (i.e. vehicles with soft suspension).



To Locate A Dealer
call the Distributor
near you.
Select a state/province
from the menu below.

United States 

**Company
Information
Contact**

**Counteract
Information
Injection
Bag-In-Bag
Testimonials
Application
F.A.Q.
Guarantee**



**-For the first time, a product which
can efficiently fulfill all of your truck
tire balancing needs... at a fraction of
the cost!**

www.counteractbalancing.com

Guarantee

Counteract Kinetic Cling Beads(TM) has been advertised and sold to first time buyer Tire Dealers and Transport Companies on a 'Satisfaction Guaranteed or Don't Pay' basis. If they do not agree that Counteract Kinetic Cling Beads(TM) Balancing System is the best overall method balancing truck tire wheel assemblies in the world today, they don't have to pay.

We encourage and promote this guarantee worldwide through our distributors. Since our beginning about 4 years ago, all have agreed by paying.

To protect ourselves from fraudulent claims, the above guarantee is limited to 1 or 2 boxes (approx. 80 applications) and must be pre-approved by the selling distributor along with credit approval.

Copyright (c) 1999 Richard Colbourne, All rights reserved. Reproduction in whole or in part in any form or medium without express written permission of Richard Colbourne is prohibited.